

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumers' Action Network (UCAN),

Complainant,

vs.

Pacific Bell Telephone Company,

Defendant.

Case 02-01-007
(Filed January 7, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PREHEARING CONFERENCE AND
REQUIRING RULE 49 CASE MANAGEMENT MEETING AND STATEMENT**

On January 7, 2002, the Utility Consumers' Action Network (UCAN) filed this complaint against Pacific Bell Telephone Company (Pacific) alleging that Pacific imposed unauthorized charges for DSL services; failed to correct those unauthorized charges expeditiously when they were brought to its attention; threatened customers who disputed those charges with disconnection or toll restriction; intentionally engaged in these practices as a means of creating additional marketing opportunities; and failed to update its tariffs to reflect required disconnection practices, all in violation of state law and Commission orders. Pacific's written answer to the complaint is due by February 11, 2002.

Today's ruling sets a prehearing conference (PHC), and requires the parties to meet and confer beforehand to prepare a case management statement as described in the Commission's Rules of Practice and Procedure, Rule 49.

Prehearing Conference

A PHC will be held at 2:30 p.m., on February 19, 2002, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. The parties shall be prepared at that time to discuss a proceeding schedule, their positions on each of the topics set forth in the case management statement required in the section below, and any other procedural matters helpful to the orderly and expeditious conduct of this proceeding.

Case Management Meeting and Statement

Prior to the PHC, parties UCAN and Pacific shall meet and confer on the topics set forth in the Commission's Rules of Practice and Procedure, Rule 49(b). A copy of Rule 49 is attached to this ruling for reference. Within 10 days after the completion of that meeting and conference, but not later than February 14, 2002, UCAN and Pacific jointly shall file a case management statement reporting the results, as described in Rule 49(c). The joint case management statement shall follow the topic outline of Rule 49(b). For each topic on which the parties have not reached consensus, the joint case management statement shall include a brief, concise statement of each party's position with respect to that topic.

Other Procedural Matters

Parties are advised not to wait for the PHC to commence discovery. Any discovery disputes the parties are unable to resolve may be tendered to the Commission pursuant to the procedure set forth in Resolution ALJ-164.

IT IS RULED that:

1. The Commission has set a prehearing conference (PHC) in the above captioned matter for 2:30 p.m., February 19, 2002, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
2. Before the PHC, the Utility Consumers' Action Network (UCAN) and Pacific Bell Telephone Company (Pacific) shall meet and confer on the topics set forth in the Commission's Rules of Practice and Procedure, Rule 49(b).
3. UCAN and Pacific shall, within 10 days after completion of their meeting and conference but not later than February 14, 2002, jointly file and serve a case management statement as described in Rule 49(c) and as further described in the body of this ruling.
4. Parties should begin any needed discovery efforts as soon as possible. Any discovery disputes the parties are unable to resolve may be tendered to the Commission pursuant to the procedure set forth in Resolution ALJ-164.

Dated January 16, 2002, at San Francisco, California.

/s/ JAMES C. MCVICAR

James C. McVicar
Administrative Law Judge

ATTACHMENT

49. (Rule 49) Prehearing Conference.

(a) A prehearing conference may be held for the purposes of formulating or simplifying the issues, arranging for the exchange of proposed exhibits or prepared expert testimony, limiting the number of witnesses, and such other matters as may expedite the orderly conduct and disposition of the proceeding.

(b) At or before the first prehearing conference, the administrative law judge may require the parties to meet and confer on the following topics:

- (1) Identification of the principal factual and legal issues and the evidentiary bases for claims and defenses;
- (2) Use of settlement techniques or other alternatives to litigation;
- (3) Need for disclosure or discovery of documents or other information;
- (4) Plan for conducting discovery;
- (5) Identification of motions requiring early resolution;
- (6) Recommended dates for completion of discovery, service of prepared testimony, additional prehearing conferences, and hearings; and
- (7) Other topics as the interests of justice and efficient case management require.

(c) Within 10 days of the completion of any meeting and conferring directed under subsection (b), the parties must file a case management statement reporting on the results of their conferring.

(END OF ATTACHMENT)
CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Setting Prehearing Conference and Requiring Rule 49 Case Management Meeting and Statement on all parties of record in this proceeding or their attorneys of record.

Dated January 16, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. Parties must indicate the proceeding number on the service list on which their names appear.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282
at least three working days in advance of the event.